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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Broadcast Localism	)	MB Docket No. 04-233
	)	FCC 07-218

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Federal Communications Commission
Office of the Secretary

To: The Secretary
For the Commission

Comments of Salem Communications Corporation
Report on Broadcast Localism and Notice of Proposed Rulemaking

INTRODUCTION

We hereby submit our Comments in response to the Report on Broadcast Localism and Notice of Proposed Rulemaking (*"Report and NPRM"*), FCC 07-218, released January 24, 2008. **It should also be noted that these comments are greatly expanded upon in Joint Comments submitted by the law firm of Fletcher, Heald and Hildreth, in which Salem Communications Corporation is a joint commenter.**

Description of Commenter

Salem Communications Corporation is an integrated media company that is committed to serving the growing audience interested in content related to faith, family and conservative values. Although we have a considerable investment in other media, we have found that traditional radio broadcasting is the best way to reach this audience, and that is why radio continues to be the foundation of our platform. Salem has several "strategic radio formats" that serve this audience, the largest of which is Christian Teaching and Talk. This format offers

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mostly long-form talk programming – teaching and interactive talk -- that engages the audience, helping them to meet life's challenges by encouraging faith, personal responsibility and good citizenship.

Preliminary Statement

Radio now faces many challenges. There is vast array of new media choices available to consumers, among which are Internet radio, Satellite radio and podcasting, and these present significant competition for the listeners to traditional radio. Additionally, an aggressive push by the largely foreign-owed recording industry to impose on broadcasters a new set of music sound recording royalty obligations is a particularly daunting challenge. Nevertheless, over the past several years, we have found that the Commission's acceptance of a more market-based regulating model has been good for radio. Indeed, this has allowed radio to overcome the adverse economic impact that was brought about by Commission actions in the late 1980's, when the large increase in numbers of FM licenses granted had a detrimental effect on radio economics.

Since 9-11, and the 2001 recession that followed, radio has never really returned to the healthy economic state it enjoyed in the late 1990's. The industry now struggles to maintain even low-single digit annual revenue gains. A further measure of radio's current economic challenges is confirmed by the fact that every publicly traded company with substantial radio holdings is trading at or near their all-time lows without exception. The investment community has reacted sharply to the new competitive challenges facing terrestrial radio, including satellite radio, digital mobile devices and the interactive sector. Fifteen years ago, for example, no money was spent on Internet ads; today this sector comprises 8% of total ad expenditures in the United States. This growth has come at the expense of traditional media, including radio, print and television. We are thus all the more concerned when we read the Commission's *Report and NPRM*, signaling what appears to be the return to more regulation of radio. This could not have come at a worse time -- the economic burdens which would be imposed could have potentially devastating impact on an already depressed industry.

We recently took some mild encouragement from Commissioner Robert McDowell, during his April 23, 2008, comments before the Quello Communications Law and Policy Symposium. *These comments expressed an overt disapproval of increased regulation:*

> Clearly, our "new media economy" is a new world for consumers, and for traditional media networks and broadcasters as well. So why are policymakers like us at the FCC dusting off decades-old regulations to impose on broadcasters? Why are we considering placing these proverbial albatrosses around the necks of traditional media precisely at this "tipping point" in history when they can least afford a regulatory disadvantage vis-à-vis unregulated platforms like the Internet?

We only wish the Commissioner's philosophy was in evidence in the referenced *Report and NPRM* – but it is not, and, as Commissioner McDowell suggests, "...we ....proceed with a healthy skepticism of regulation."

Salem is deeply concerned by the host of new regulations that are being recommended in this NPRM. We see here the Commission setting forth recommendations which, if implemented, will punish radio -- a highly regulated industry, when compared to its competitors in the digital/interactive sector – a medium that is arguably the best personification of the spirit of community service: elucidation of ideas, public policy interpretation/critique and disaster awareness, to name a few of its virtues. If implemented, the added regulatory burdens flowing out of these recommendations will stifle the recovery possibilities of a vital but now struggling industry, and especially cripple small and non-rated broadcasters.

REACTION TO SOME OF THE COMMISSION'S SPECIFIC PROPOSALS

With this as a back-drop, we will now address two specific proposals found in the *Report and NPRM*, those proposing mandatory Community Advisory Boards and changes to the Commission's main studio rules. The following will explain why this broadcaster thinks these recommendations are unneeded at local radio stations, and why they could potentially bring great harm to the vitality of our industry.

<u>Community Advisory Boards</u> (*Report and NPRM*, Paragraphs 25, 73)

In the *Report and NPRM* at 25, we were dismayed to read recommendations as summed up in the following:

> We do tentatively conclude, however, that the same fundamental objectives [of formal ascertainment requirements] can be achieved through other means, including regular, quarterly licensee meetings with a board of community advisors and improved access by the public to station decision makers.

As a broadcast company that operates comparatively low-revenue, non-rated stations, we submit that community boards of advisors as discussed in the *Report and NPRM* would be at minimum unnecessary and ultimately counterproductive. First, such a structure is largely unnecessary because the spirit of the recommendation is already being accomplished at our stations through good business practices. Because our stations are largely non-rated by Arbitron, and do not have extensive promotion budgets, the station management must aggressively reach out to find and serve the audiences interested in its programming. They therefore maintain close contact with the community leaders who have personal interest in our stations. These include, among many other categories of members of the public in regular contact with Salem's stations, local pastors and church leaders, city officials, Members of Congress and business leaders – who serve the multi-generational citizens in our broadcast communities and often function as a sounding board for our station management in better meeting its obligations to the local market. These leaders represent a cross section of ethnic and socio-economic interests.

The *Report and NPRM* concludes at 26, that "if a licensee already has formal groups in place with which it consults to determine the needs of the community, it should be deemed to have satisfied this requirement." In each of our communities of license, we are being held accountable by members of nearly every strata of the culture, and although this accountability group is not "formal" in the strictest sense, it serves a far better function than would be expected from an appointed set of community leaders which may be unfamiliar with our programming. The latter, through a basic misunderstanding of our audience's interests and needs, may bring pressure to change the programming, of our stations, causing a disaffection of our audience and potentially leaving our audience without its needs and interests served by any broadcaster.

Should the Commission impose a Community Advisory Board requirement, we seriously question that this added regulation would somehow improve on our stations' service to their communities. Indeed, it is predictable that the result will be directly the opposite. Leaving the concept of an organic, market-driven, informal group of leaders who are working with our station management, it would seem quite another matter to appoint a local "Board" with no responsibility for our stations' licenses and assume this would somehow lend more accountability. Such a board could easily be caught up in its own importance, especially with a multitude of local broadcasters competing for its attention. (In the Los Angeles radio market, for example, with some 100 radio stations, how many members of the City Council would be approached with multiple requests from competing radio licensees?) Reason dictates that Community Advisory Boards could easily become an irritant, a source of potential tension for the licensee. It would be entirely reasonable for a licensee to fear retribution by its mandatory Community Advisory Board if the licensee refuses to follow its Board's recommendations. If its Board files a petition to deny its renewal, or demands of the Commission a mid-license term investigation, the licensee would incur extraordinary, perhaps crippling, costs to defend itself. The Commission's proposal will, in addition to creating tension and turmoil, lead to the compromising and undermining of the precept that a licensee must be the ultimate authority over its station's programming.

<u>Main Studio Rule</u> (*Report and NPRM,* Paragraph 41)

A dilemma is posed by the Report's inclination to move the industry backward to a pre-1987 rule. As stated in the *Report and NPRM* at 41:

> At one time, all broadcasters were required to maintain their main studios in their communities of license. In 1987, however, the Commission changed its rules to allow a station to locate its main studio at any location within the station's principal community contour. In 1998, the Commission further liberalized the rule to allow the studio to be located within either the principal community contour of any station, of any service, licensed to its community of license or 25 miles from the reference coordinates of the center of its community of license...

Salem's Los Angeles cluster demonstrates the efficacy of allowing "clustering" of operations under one roof. Stations KKLA-FM, KRLA (AM), KXMX (AM) and KFSH-FM, licensed to three different cities in the Los Angeles metropolitan area, utilize one studio complex reasonably central to the three communities. In addition to the obvious cost-savings from economies of scale, there is an enormous benefit gained from the synergies of one General Manager having access to all of his staff under one roof, and in turn achieving the resulting "2+2=5" effect from a team of employees working in close proximity and sharing creative ideas. Should the Commission change this rule, moving the industry back to pre-1987 standards, it is doubtful that all of these stations, and countless other station clusters like them, would be able to continue serving their audiences as they have been. The result could be the silencing or severe diminishment of the quality and content offered up through the many radio voices serving diverse audiences throughout this country. The location of the cluster offices in a transportation-accessible locale with user-friendly modern facilities, affordable due to the economies of scale, provides the stations' employees and public with opportunities to reach the facility or communicate with its management more efficiently than in the past.

We find the prospect of returning to a Commission proposal as articulated in *Report and NPRM* at 41, "that licensees locate their main studios within the local communities so that they are 'part of the neighborhood'" to be ill-conceived and a major threat to the many and diverse radio voices that are now serving U.S. radio markets. These voices are fragile, for reasons discussed at the outset of these comments, and they will not be strengthened by returning to an archaic, unnecessary and unrewardingly costly main studio rule. Moreover, requiring multiple stations under common ownership – local group ownership encouraged by Congress and by amendments to the Commission's rules – to abandon centralized studio facilities – developed and built in accordance with the Commission's rules – will cause extreme financial harm to an industry already suffering economically. The investments in central studio locations built at great cost, and for which many broadcasters have become obligated on long-term leases, would be irretrievably lost because of an unreasonable government mandate.

Conclusion:

It appears that this new regulatory climate under consideration by the Commission has been prompted by pressure from certain groups as a means of taking autonomy from local broadcasters – many of whom have heretofore been able to operate successfully in accordance with good business management and market-based principles. The vast majority of stations operate under the rule that "serving our communities comes first, and if that is done well, all will benefit." These proposed regulations will only take broadcasters back to the pre-modern technology standards and operational constraints that will diminish both the quality and the profitability of the U.S. commercial radio industry -- an industry that has been a model of efficiency, creativity and profitability to the entire world. More sinister is the possibility that these new rules may actually invoke a "Fairness Doctrine" effect upon broadcasting, under the guise of more localism and accountability. This is a chilling prospect that, if accomplished, could usher in a dark age of radio broadcasting, promoting multiple station closures and chaos in place of effective community service.

Respectfully submitted,

Evan D. Masyr

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